


1 SHIMIZU CANTO & FISHER
Suite 101 Dela Corte Building
2 167 East Marine Corps Drive
Hagåtña, Guam 96910
3 671.472.1131

4 TOUSLEY BRAIN STEPHENS PLLC
Kim D. Stephens, P.S., *Pro Hac Vice*
5 Nancy A. Pacharzina, *Pro Hac Vice*
1700 Seventh Avenue, Suite 2200
6 Seattle, Washington 98101
206.682.5600

7
8 *Attorneys for Plaintiffs Mary Grace Simpao,*
Christina Naputi and Janice Cruz
9
10
11

FILED
DISTRICT COURT OF GUAM

JUN 29 2007 

MARY L.M. MORAN
CLERK OF COURT

12 DISTRICT COURT OF GUAM

13 TERRITORY OF GUAM

14 MARY GRACE SIMPAO, CHRISTINA
15 NAPUTI, and JANICE CRUZ, on behalf of
themselves and a class of others similarly
16 situated,

17 Plaintiffs,

18 vs.

19 GOVERNMENT OF GUAM,

20 Defendant,

21 vs.

22 FELIX P. CAMACHO, Governor of Guam,
Intervenor-Defendant.
23

CASE NO. CV04-00049
CASE NO. CV04-00006

DECLARATION OF JAMES L. CANTO
IN SUPPORT OF REPLY TO
OPPOSITION TO SIMPAO PLAINTIFFS'
APPLICATION FOR ATTORNEYS'
FEES AND COSTS

24 I, James L. Canto II, declare as follows:

25
26 1. If I called to testify in this matter, I will declare and state that the following is
true and correct to the best of my knowledge;

2. I am a partner in the law firm of Shimizu Canto & Fisher. This firm, together with the law firm of Tousley Brain Stephens PLLC, represent Plaintiffs Simpao et al. in this matter;

3. “Exhibit A” appended hereto is a true and correct copy of a letter from Thomas J. Fisher of Van de veld Shimizu Canto & Fisher sent to Ms. Kathleen V. Fisher and Mr. Daniel M. Benjamin of Calvo & Clark LLP, with attachments, dated January 5, 2007, and bearing the receipt stamps of Calvo & Clark LLP, The Law Offices of Phillips & Bordallo, and Lujan Aguigui & Perez LLP;

3. "Exhibit B" appended hereto is a true and accurate copy of the *Declaration Of Nancy A. Pacharzina In Support Of Application For Attorneys' Fees And Reimbursement Of Costs*, transmitted to me via e-mail message in pdf format from Tousley Brain Stephens PLLC, and bearing the signature I recognize as being that of Nancy A. Pacharzina. The original ink-signed version of this document is currently on route by Federal Express for filing;

4. "Exhibit C" appended hereto is a true and accurate copy of the *Declaration Of Jonathan D. Selbin*, transmitted to me via e-mail message in pdf format from Tousley Brain Stephens PLLC, and bearing a signature presumed to be that of Jonathan D. Selbin. The original ink-signed version of this document is currently on route by Federal Express for filing;

I declare under penalty of perjury under the laws of the United States and the Territory of Guam that the foregoing is true and correct to the best of my knowledge and understanding.

Executed this 29th day of June 2007.


JAMES L. CANTO II

VAN DE VELD SHIMIZU CANTO & FISHER

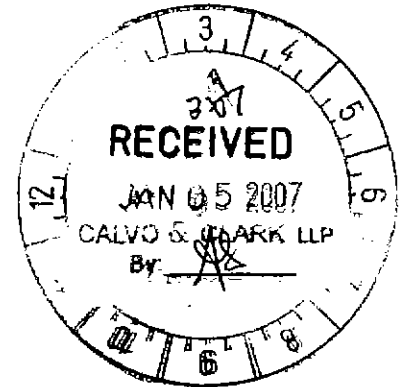
ATTORNEYS AT LAW

CURTIS C. VAN DE VELD
JAMES L. CANTO II

NAOKO G. SHIMIZU
THOMAS J. FISHER

January 5th, 2007

Ms. Kathleen V. Fisher, Esq.
Mr. Daniel M. Benjamin, Esq.
Calvo & Clark LLP
Suite 202 655 S. Marine Corps Dr.
Tamuning, Guam 96913



Via: Facsimile transmission and hand delivery

Dear Kathy and Dan,

Attached to this letter are some proposed modifications to the *Santos III* Settlement (hereinafter the "Settlement"). Some require an additional contribution from the Government in exchange for the Class' currently proposed compromise of claims. Some have (or are intended to have) little to no economic impact on the Government. All of the proposed changes increase the benefits of the Settlement to the Class. They also increase the likelihood the settlement will receive preliminary and final approval from the Court – a potential benefit to both your client and ours.

Please let us know if your client will consider (assuming the *Santos* and *Torres* Plaintiffs also agree), incorporating any of these changes to the revised settlement agreement you plan to submit to the Court on Monday. This request does not constitute a waiver of, and the *Simpao* Plaintiffs expressly reserve, their right to object to the *Santos III* Settlement with or without incorporation of any of the proposed improvements. We hope to ultimately increase overall compensation, however we assume the Government is not so inclined.

Sincerely,

Thomas J. Fisher

PHILLIPS & BORNALLO

cc: Michael F. Phillips, Esq., counsel for plaintiff Santos
Peter C. Perez, Esq., counsel for plaintiff Torres

RECEIVED BY
DATE 1/5/07
TIME 2:35

SUITE 101 DE LA CORTE BUILDING • 167 EAST MARINE CORPS DRIVE • HAGATNA, GUAM 96910
PHONE (671) 472-1131 • FAX (671) 472-2886

EXHIBIT A

**Simpao Plaintiffs' Proposed Modifications
To the Santos III Settlement Agreement**

I. Proposed Changes with an Economic Impact

A. Additional Term Regarding Offsets to be applied to EIC claims

The Government will waive interest payments on all offsets for which it has authority to do so.

Benefit: Eliminates zero netting unfairness

B. Increase Amount Paid for Tax Year 2000

The Government will make \$15 million available to pay EIC claims for tax year 2000

Benefit: Eliminates unfairness of under compensating tax year 2000 in light of the fact these claims are not potentially time barred under *American Pipe*.

II. Proposed Changes Intended to Have No Economic Impact to the Government But Which Will Provide an Enhanced Benefit to the Class

A. Additional Term Regarding Validity of the Federal EIC

The Government acknowledges the federal EIC applies to Guam pursuant to the mirroring provisions of the Organic Act.

Benefit – Ensures legality of all payments especially payments for future class years and therefore increases chances for settlement approval

B. Deletion of Pre-Approval Payments for 1997 and 1998

Benefit: Eliminates unnecessary risk settlement will not be approved and risk of legality.

III. Changed Terms Regarding Amounts Made Available for Each Tax Year

The government will make the following amounts available for each of tax years 1995, 1996 and 1998-2004 for a total of \$92.2M. Once all claims for a given tax year are filed the government will pay each claimant its pro rata share of the amount available for that

tax year up to 100% of the value of the claim based on principal plus interest due. Terms regarding roll over of unclaimed funds to the next tax year remain the same.

Tax Year	Settlement Amount
1995	\$14,284,613
1996	\$13,226,805
1997	<i>Separately funded</i>
1998	\$11,384,593
1999	\$10,503,065
2000	\$9,602,866
2001	\$8,960,338
2002	\$8,462,645
2003	\$8,089,293
2004	\$7,711,259
Total	\$92,225,477

Benefit: Minimizes conflicts between Tax Years; eliminates under compensation of tax year 2000.

IV. Agree to respond to discovery on issues relevant to settlement approval.

Benefit: Increases validity of settlement agreement and chances for approval.

1 SHIMIZU CANTO & FISHER
2 Suite 101 De La Corte Bldg.
3 167 East Marine Corps Drive
4 Hagåtña, Guam 96910
5 671.472.1131

6 TOUSLEY BRAIN STEPHENS PLLC
7 Kim D. Stephens, P.S., *Pro Hac Vice*
8 Nancy A. Pacharzina, *Pro Hac Vice*
9 1700 Seventh Avenue, Suite 2200
10 Seattle, Washington 98101
11 206.682.5600

12 *Attorneys for Plaintiffs Mary Grace Simpao, Christina Naputi and Janice Cruz*

13 DISTRICT COURT OF GUAM
14 TERRITORY OF GUAM

15 JULIE BABAUTA SANTOS et al.,

16 Plaintiffs,

17 vs.

18 FELIX A. CAMACHO et al.,

19 Defendants.

In the consolidated cases of:

Case No. CV04-00006

20 CHARMAINE R. TORRES et al.,

21 Plaintiffs,

22 vs.

23 GOVERNMENT OF GUAM, et al.,

24 Defendants.

Case No. CV04-00038

25 MARY GRACE SIMPAO *et al.*,

26 Plaintiffs,

27 v.

GOVERNMENT OF GUAM,

Defendant,

vs.

FELIX P. CAMACHO, Governor of Guam,

Intervenor-Defendant.

Case No. CV04-00049

DECLARATION OF NANCY A.
PACHARZINA IN SUPPORT OF
APPLICATION FOR ATTORNEYS'
FEES AND REIMBURSEMENT OF
COSTS

1. My name is Nancy A. Pacharzina. I am one of the attorneys representing Mary Grace Simpao and Janice Cruz. I have personal knowledge of the matters stated herein and I am competent to testify about these matters at a trial or hearing.

DECLARATION OF NANCY A. PACHARZINA IN SUPPORT
OF APPLICATION FOR ATTORNEYS' FEES AND
REIMBURSEMENT OF COSTS - 1
4162/001/207050.1

TOUSLEY BRAIN STEPHENS PLLC
1700 Seventh Avenue, Suite 2200
Seattle, Washington 98101
TEL 206.682.5600 • FAX 206.682.2992

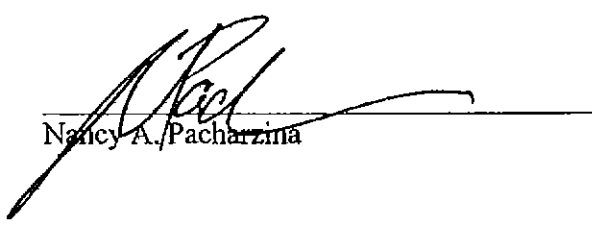
1 2. On the morning of Thursday June 21, 2007 in Guam (the afternoon of June 20th
2 in Seattle) I had a telephone conversation with Daniel Benjamin, counsel for the Government
3 of Guam.

4 3. I told him that although the Motion for Final Approval stated a proof of notice
5 had been filed with the Court, we had seen no such filing. I also asked him if the Government
6 had any further information regarding the representation that 54,000 claims had been made in
7 response to the notice of the settlement.

8 4. My co-counsel have informed me that later that same day at 3:11 p.m. the
9 Government served and filed the Declaration of John P. Camacho in Support of Motion for
10 Final Approval of Class Action Settlement Agreement, which provided the information I had
11 requested, i.e., proof that notice of the proposed settlement had been made and some limited
12 data on the EIC claims that have been made.

13
14 I declare under penalty of perjury under the laws of the State of Washington and the
15 United States of America that the forgoing statements are true.

16
17 Dated this 26th day of June, 2007 in Seattle, Washington

18
19
20 
21 Nancy A. Pacharzina

22
23
24
25
26
DECLARATION OF NANCY A. PACHARZINA IN SUPPORT
OF APPLICATION FOR ATTORNEYS' FEES AND
REIMBURSEMENT OF COSTS - 2

4162/001/207050.1

TOUSLEY BRAIN STEPHENS PLLC
1700 Seventh Avenue, Suite 2200
Seattle, Washington 98101
TEL 206.682.5600 • FAX 206.682.2992

VAN DE VELD SHIMIZU CANTO & FISHER
Suite 101 Dela Corte Building
167 East Marine Corps Drive
Hagåtña, Guam 96910
671.472.1131

TOUSLEY BRAIN STEPHENS PLLC
Kim D. Stephens, P.S., *Pro Hac Vice*
Nancy A. Pacharzina, *Pro Hac Vice*
1700 Seventh Avenue, Suite 2200
Seattle, Washington 98101
206.682.5600

Attorneys for Plaintiffs Mary Grace Simpao, Christina Naputi and Janet Cruz

DISTRICT COURT OF GUAM TERRITORY OF GUAM

JULIE BABAUTA SANTOS, *et al.*,

Petitioners,

v.

FELIX P. CAMACHO, *et al.*,

Respondents,

CASE NO. CV04-00006

DECLARATION OF JONATHAN D.
SELBIN

CHARMAINE R. TORRES, *et al.*,

Plaintiffs,

v.

GOVERNMENT OF GUAM, *et al.*,

Defendant.

CASE NO. CV04-00038

1 MARY GRACE SIMPAO, *et al.*,

CASE NO. CV04-00049

2 Plaintiffs,

3 v.

4 GOVERNMENT OF GUAM,

5 Defendant.

6 I, JONATHAN D. SELBIN, declare as follows:

7
8 1. I am a member of the law firm of Lief, Cabraser, Heimann & Bernstein,
9 LLP ("LCHB"). I am a member in good standing of the bars of the States of California and New
10 York, and the bar of the District of Columbia, as well as numerous federal district and appellate
11 courts. I have personal knowledge of the facts set forth in this declaration, and could testify
12 competently to them if called upon to do so.

13 2. LCHB is a national law firm with offices in San Francisco, New York, and
14 Nashville. LCHB's practice focuses on complex and class action litigation involving product
15 liability, consumer, employment, financial, securities, environmental, and personal injury
16 matters.

17 3. I am a 1993 graduate of Harvard Law School. Following my graduation
18 from law school, I clerked for the Honorable Marilyn Hall Patel in the Northern District of
19 California from 1993 to 1995. I have worked exclusively at LCHB since the fall of 1995 to the
20 present, in the capacities of associate and partner.

21 4. During my twelve years of practice, I have focused my work exclusively
22 on class action litigation, primarily in the fields of product defect and consumer fraud. In the
23 course of my work, I have been involved in well over a dozen of LCHB's applications for
24 awards of attorneys fees and costs in class action litigation.

25 5. Based upon my experience, I am familiar with the rates typically charged
by class counsel and approved by courts in such cases, and in particular, rates typically charged
and approved by courts (both federal and state) in the San Francisco Bay area. Based upon that

1 experience, it is my opinion that the rates set forth in [NAME OF CASE] cited by defendant in
2 this litigation are well below those typically charged by experienced class counsel in the San
3 Francisco Bay area.

4 6. I am a member of my firm's Executive Committee, which periodically
5 updates LCHB's billing rates. The last time such rates were updated was January 1, 2007. The
6 updates are based upon publicly available market survey data, cases in which courts have
7 approved billing rates of our firm and comparable class action firms in class litigation, and the
8 rates that are negotiated and paid by our sophisticated hourly clients.

9 7. As a mid-level partner, my own current billing rate is \$575 per hour. The
10 remainder of our rates can be summarized as follows:

11 Senior Partner - \$650 to \$775/hr

12 Junior Partner - \$415 to \$475/ hr

13 Senior Associate - \$380 to \$410/hr

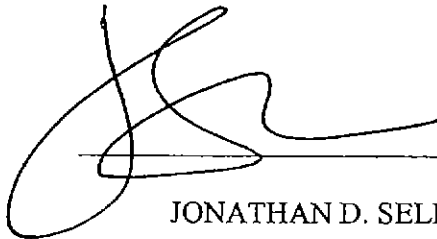
14 First Year Associate - \$295/hr

15 8. LCHB's rates have repeatedly been approved by courts, and I am aware of
16 no case in which they were *not* approved.

17 I declare under penalty of perjury under the laws of Guam and the United States
18 that the foregoing is true and correct.

19 Executed this 26th day of June, 2007 at New York, New York.

20
21
22
23
24
25



JONATHAN D. SELBIN